

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-381-C - ORDER NO. 2001-1124  
DECEMBER 18, 2001

IN RE: Application of VarTec Telecom, Inc. for a	)	ORDER GRANTING
Certificate of Public Convenience and	)	MOTION FOR
Necessity to Provide Facilities-based and	)	EXPEDITED REVIEW
Resold Local Exchange Telecommunications	)	AND GRANTING
Services within the State of South Carolina.	)	CERTIFICATE TO
	)	PROVIDE LOCAL
	)	EXCHANGE SERVICES

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application filed by VarTec Telecom, Inc. ("VarTec" or "Applicant") to amend its Certificate of Public Convenience and Necessity to expand its authority to provide resold and facilities-based local exchange telecommunications services within the State of South Carolina. VarTec currently holds a Certificate of Public Convenience and Necessity to provide resold intrastate interexchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280(B) (Supp. 2000) and Section 253 of the Federal Telecommunications Act of 1996. Subsequent to the filing of the Application, VarTec requested expedited review and disposition of the Application.

VarTec is a corporation organized under the laws of the State of Texas. VarTec was qualified to do business by the Secretary of State in South Carolina on April 20,

1992 and was granted authority to provide interexchange service by this Commission on October 21, 1992, by this Commission in Docket No. 92-318-C, Order No. 92-915.

By letter dated September 20, 2001, the Commission's Executive Director instructed the Applicant to publish a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to provide notice of the Application to any interested parties and to advise interested parties of the manner and time in which to file pleadings to participate in the docket. The Applicant filed Affidavits of Publication as proof that it had complied with the instructions of the Executive Director. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on October 29, 2001.

Thereafter, counsel for SCTC filed with the Commission a Stipulation in which VarTec stipulated that it would seek authority only in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until VarTec provided written notice of its intent prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. VarTec agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

### **MOTION FOR EXPEDITED REVIEW**

VarTec filed a Motion for Expedited Review of its Application. In furtherance of its request for expedited review, VarTec filed verified testimony in support of its Application to amend its Certificate of Public Convenience and Necessity to expand its authority to provide resold and facilities-based local exchange telecommunications services and exchange access service in the State of South Carolina. After VarTec filed its Motion for Expedited Review with the accompanying verified testimony, the Commission Staff brought the matter to the Commission for consideration.

Upon consideration of VarTec's request for expedited review, the Commission finds that expedited review should be granted. By its request, VarTec waives its right to a formal hearing. The Commission finds that notice of the Application was properly afforded to the public and that the SCTC intervened. The Commission finds that procedural due process was afforded in this matter and further finds that the Applicant makes a knowing waiver of a formal hearing. Therefore, the Commission will consider the Application in the context of its regularly scheduled weekly meeting, with a court reporter present, and for purposes of the expedited review, the Commission will deem the examination of the Application and verified testimony of Patricia Zacharie, Regulatory Counsel for VarTec Telecom, Inc. during the course of the Commission's regularly scheduled meeting with a court reporter present as a hearing on this matter.

### **EXAMINATION OF THE APPLICATION AND VERIFIED TESTIMONY**

According to the testimony, Var Tec seeks to provide facilities-based and resold local exchange telecommunications services and exchange access service within the State

of South Carolina. For the facilities-based services, the Company intends to use the unbundled network elements platform of the incumbent carriers. Additionally, the Company intends to provide dial tone, call management services such as caller identification and three-way calling, digital subscriber line and other high capacity services. Moreover, VarTec intends to bundle its service offerings so that South Carolina consumers can obtain their local, long distance and call management services from one carrier.

Zacharie addressed the Company's financial, technical, and managerial resources of VarTec to provide telecommunications services in South Carolina. According to Zacharie, the Company has extensive managerial and technical experience in the telecommunications industry. Zacharie testified the Company has gained extensive experience in providing quality customer support through its interexchange telecommunications services; however, the Company will also rely on the expertise of the underlying carrier for repair and maintenance of the local network. A. Joe Mitchell, Jr. is the Company's President, a principal shareholder and the founder of VarTec. Mitchell was one of the original founders and initial president of ClayDesta Communications. According to the record, ClayDesta Communications grew to annualized revenues in excess of fifty million during Mitchell's three-year tenure. After leaving ClayDesta Communications, Mitchell formed the wholesale division at Teleconnect, later known as Telecom\*USA. The record reveals that while Mitchell was at Telecom\*USA, this company's wholesale division grew from start-up to sixty million in annual revenues in only eighteen months. Ron L. Hughes is the Company's Chief Operating Officer. He is

also a minority shareholder in VarTec. Hughes was employed for seven years at Southwestern Bell Telephone Company. During his tenure at Southwestern Bell Telephone Company, he held positions as Communications Consultant, Account Executive, Customer Services Supervisor, Certified Industry Consultant, and Product Delivery Marketing Manager. After leaving Southwestern Bell, Hughes became one of the original founders of ClayDesta Communications. While employed at ClayDesta Communications, Hughes held the title of Senior Vice President – Sales/Marketing and he was responsible for the entire sales effort of one hundred outside sales and one hundred fifty telemarketing personnel as well as directing the marketing and advertising effort.

The Company's Chief Legal Counsel is Michael G. Hoffman. Hoffman joined VarTec in May 1992 as its Corporate Counsel and Director of Regulatory Affairs. In this capacity, Hoffman has overseen VarTec's application for business licenses and certificates of good in numerous jurisdictions. The record also reveals Hoffman is responsible for VarTec's on-going compliance requirements, governmental affairs and inquiries, as well as the regulatory duties imposed on the Company by the Federal Communications Commission and various state utility commissions in the jurisdictions in which the Company currently operates. Gary D. Egger is the Company's Treasurer. He is also a minority shareholder in VarTec. Prior to joining VarTec, Egger served for eight years with Telecom\*USA as Vice President of Finance and Chief Financial Officer of the Teleconnect division. At VarTec, Egger oversees the Company's Finance and Accounting Departments. According to the testimony, VarTec has access to sufficient

financial resources to provide telecommunications services in South Carolina and to meet its cash needs.

For the Company's local services, VarTec plans to bill its customers directly by utilizing monthly billing statements which will be sent to customers via United States Mail. The Company will market its services through direct mail marketing. According to the testimony, VarTec may use telemarketing firms in the future if market conditions warrant. Regarding the Company's handling of inquiries/disputes, VarTec will direct consumers to report repair and maintenance, complaints, billing questions, refunds or any other customer service-related inquiries to the Company through a toll-free telephone number listed within the customer's telephone statement and/or other materials distributed by the Company. According to the testimony, upon receipt of a complaint or trouble report, the Company will investigate and correct any service, billing or repair problems in a timely manner. Customers may also contact the Company in writing at the Company's address, as well as through the internet at [www.vartec.net](http://www.vartec.net). The contact person at VarTec that should be contacted regarding customer complaints or other regulatory issues is Kevin Allen, Manager, Regulatory Affairs.

VarTec is currently certified to provide telecommunications services in other states. The Company provides long distance services to consumers in all states except Alaska. VarTec currently provides local exchange services in Texas, Kansas, and Missouri; the Company is authorized to provide local exchange services in Arkansas, Florida, Kansas, Missouri, Montana, North Carolina, Oklahoma, Oregon, Pennsylvania (provisional authority), Texas and Wisconsin. Zacharie testified that applications for

local authority are pending in more than thirty other states. The testimony also reveals that VarTec has never been served with a formal Federal Communications Commission complaint, and the Company's ability to provide telecommunications services has never been revoked, suspended or otherwise impacted as a result of regulatory actions taken against the Company in response to consumer complaints or for any other reason.

Zacharie also testified that VarTec seeks waivers regarding the Uniform Systems of Accounts, directory publishing, and certain reporting requirements. First, the Company seeks an exemption from any regulations or policies that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. According to Zacharie, the Company maintains its books in accordance with Generally Accepted Accounting Principles, and therefore, does not possess the detailed cost data required by Uniform System of Accounts. The Company also requests a waiver of the requirement of publishing a local exchange directory. The Company will arrange with the incumbent local exchange carrier for the publishing of its customers' telephone numbers in the incumbent local exchange carrier's directory. Finally, the Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610, which requires that a carrier keep all records required by the Commission's rules and regulations within the State of South Carolina. The Company's corporate offices are in Texas; therefore, according to the Company, maintaining its books and records in South Carolina would be unduly burdensome. The testimony reveals VarTec has a registered agent in South Carolina and will bear any costs associated with the Commission's inspection of its books and records.

Zacharie testified that the service VarTec intends to provide meet the service standards of the Commission. Additionally, Zacharie testified granting VarTec's application will further increase telecommunications competition in South Carolina. The record also reveals the Company's network will increase the options South Carolina consumers have to obtain bundled telecommunications services. Additionally, Zacharie testified the presence of VarTec in the market will increase the incentives for the incumbent local exchange carriers to reduce their prices, offer more innovative services, and improve their quality of service. Additionally, the Company is committed to supporting a neutrally-administered universal service fund, and will comply with all applicable federal and state requirements.

Upon review and consideration of the Application, the verified testimony of Ms. Zacharie, and the applicable law, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. VarTec is a corporation organized under the laws of the State of Texas that received a Certificate of Public Convenience and Necessity to provide long distance telecommunications services in South Carolina from this Commission pursuant to Order Number 1992-915 on October 21, 1992. The Company is seeking authority to provide local exchange telecommunications services in South Carolina.

2 VarTec is a provider of local exchange telecommunications services and interexchange telecommunications services in other states and wishes to provide its services in South Carolina.



3. VarTec has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1) (Sup. 2000).

4. The Commission finds that VarTec's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2000).

5. The Commission finds that VarTec will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4) (Supp. 2000).

6. The Commission finds that VarTec will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2000).

7. The Commission finds that the provision of local exchange service by VarTec "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2000).

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to VarTec to provide competitive resold and facilities-based intrastate local exchange services only to customers located in the non-rural areas of the state. The terms of the Stipulation between VarTec and SCTC are approved, and adopted as a part of this Order. Therefore, any

proposal to provide local telecommunications service to rural service areas is subject to the terms of the Stipulation.

2. VarTec shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. VarTec shall resell the services or lease the facilities of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. VarTec shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs VarTec to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number

Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, VarTec shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

6. In addition, VarTec is required to file annual report information for competitive local exchange carriers. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). This form is entitled "Annual Report for Competitive Local Exchange Carriers" and consists of four pages. Additionally, VarTec shall file with the Commission a quarterly report entitled "CLEC Service Quality Quarterly Report." The proper form for this report is found on the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

VarTec shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. VarTec shall also file with the Commission, with its Final Tariff, a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2000).

8. VarTec shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

9. According to the record, VarTec requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Company's corporate offices are in Texas and therefore VarTec requests permission to maintain its books and records in Texas. The Company has a registered agent in South Carolina and it will bear any costs associated with the Commission's inspection of its books and records. VarTec is granted a waiver of 26 S.C. Regs. 103-610 (1976 and Supp. 2000) requiring the Company to maintain its financial books and records within the State of South Carolina. VarTec is hereby granted permission to maintain its financial books and records at its principal headquarters in Texas. Further, the Commission acknowledges that VarTec will maintain its financial books and records in conformance with GAAP. Finally, the Company requests a waiver

of 26 S.C. Code Ann. Regs. 103-631, which requires the Company to publish a local exchange directory. According to the testimony, VarTec will arrange with the incumbent local exchange carrier for the publishing of its customers' telephone numbers in the incumbent local exchange carrier's directory. After reviewing the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-631, we find a waiver of this regulation in the public interest and hereby grant the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-631. VarTec is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2001-381-C

Re: Application of VarTec Telecom, Inc. for )  
a Certificate of Public Convenience and )  
Necessity to Provide Facilities-based and )  
Resold Local Exchange Telecommunications )  
Services in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and VarTec Telecom, Inc. ("VarTec") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose VarTec's Application. SCTC and VarTec stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to VarTec, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. VarTec stipulates and agrees that any Certificate which may be granted will authorize VarTec to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. VarTec stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. VarTec stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until VarTec provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, VarTec acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. VarTec stipulates and agrees that, if VarTec gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then VarTec will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. VarTec acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

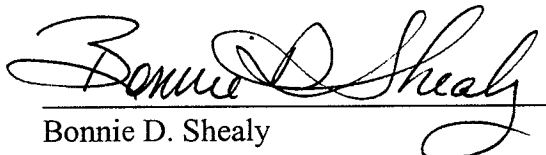
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and VarTec, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. VarTec agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. VarTec hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 5<sup>th</sup> day of November, 2001.

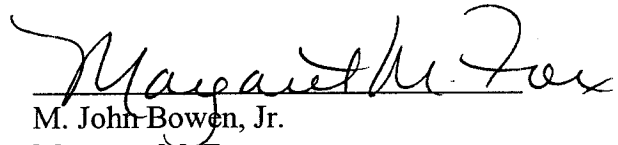
VarTec Telecom, Inc.



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## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
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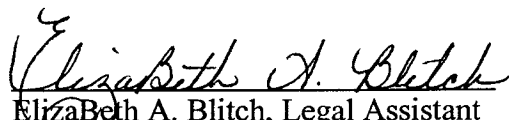
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Services in the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

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November 14, 2001

Columbia, South Carolina